IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WA.No. 2916 of 2007

AGAINST THE JUDGEMENTIN WPC.24772/2005 Dated 17/07/2007
.....

APPELLANT/PETITIONER:

KRISHNA KURUP.C.N.,
ALAPPATTU HOUSE,
THONAKKAD, CHERIYANADU VILLAGE,
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
SRI. C.R.MURALEEDHARA KURUP,
ALAPPATTU HOUSE, CHERIYANAD, WEST,
THONAKKADU P.O., CHENGANNUR.

BY ADV. SRI.R.PADMAKUMAR
SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENTS/RESPONDENTS:
---

1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
ALAPPUZHA.

3. THE SUB COLLECTOR/REVENUE DIVISIONALOFFICER,
CHENGANNUR.

4. THE TAHSILDAR,
CHENGANNUR.

BY SR. GOVT. PLEADER SRI. MUHAMMED RAFIQ.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18/12/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.M. JOSEPH, J.

- -

WRIT APPEAL No.2916 of 2007

- -

Dated this the 18th day of December, 2007.

JUDGMENT

H.L.DATTU, CJ,

Being aggrieved by the order passed by the learned Single Judge in W.P.(C) 24772 of 2005 dated 17th July, 2007, petitioner in the writ petition has presented this Writ Appeal.

2. Ext.P5 is an order passed by the Tahsildar, who is the assessing authority under the provisions of Kerala Building Tax Act and the Rules framed thereunder. Aggrieved by the assessment order so passed, the assessee had unsuccessfully filed an appeal before the First Appellate Authority.

3. Being aggrieved by the order passed by the First Appellate Authority, petitioner has already preferred a revision petition as envisaged under Section 13 of the Act before the revisional authority.

4. When the matter was pending for consideration before the revisional authority, without waiting for a final adjudication and final verdict in the revision petition filed, the petitioner could not have rushed to this court, inter alia questioning Ext.P5 order passed by the Tahsildar and Ext.P8 order passed by the First Appellate Authority.

5. In our view, the learned Single Judge ought not have entertained the writ petition. We say so for the following reasons:

Firstly, parallel proceedings are impermissible. Having filed the revision petition before the revisional authority, petitioner could not have approached this court by filing the writ petition.

Secondly, without availing the statutory remedy provided under the

Act, an aggrieved person/assessee could not have filed the writ petition before this court. On both these counts, the learned Single Judge ought not to have entertained the writ petition. Therefore, we pass the following:

Order

i) The order passed by the learned Single Judge is set aside.

ii) We now direct the revisional authority to consider the revision petition filed by the petitioner independently without being influenced by the order passed by the learned Single Judge of this court. This exercise should be done by the revisional authority as early as possible, at any rate within six weeks from the date of receipt of a copy of this court's order. All the contentions of both the parties are left open.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

sb.